
Appeal Decision

Site visit made on 10 June 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2020

Appeal Ref: APP/V4250/D/20/3245977

105 Scot Lane, Aspull, Wigan WN2 1YL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Mistry against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/19/87227/HH, dated 23 May 2019, was refused by notice dated 8 November 2019.
 - The development proposed is a first floor rear extension and raising of roof to facilitate loft conversion.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and precision, I have included 'Wigan' in the address in the banner heading above, as it is listed on the appeal form. I also note that the appeal scheme was amended during the assessment of the application, with the submission of amended drawings to remove the originally proposed second floor rear balcony. Therefore, whilst I have taken the description from the application form, as both the Council's decision notice and the appeal form refer to the second-floor rear balcony, I have omitted 'together with rear balcony' in the description in the banner heading above.
3. Issues relating to privacy have not been specifically cited on the Council's decision notice within the first refusal reason. However, as such concerns have been raised in the Officer Report and considered in the appellant's submission, I have therefore, taken this matter into consideration in the determination of this appeal. Additionally, during the course of the appeal it was evident that the application required advertising¹ as it affected the setting of Walker's Higher Farmhouse (WHF), which is a Grade II Listed Building. Whilst this was not specifically cited on the Council's decision notice, there is reference to WHF in the second refusal reason.
4. I have a statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. In this respect Policy CP11 (Historic environment) of the Wigan

¹ A newspaper advert was displayed in the Wigan Observer on 2 June 2020 and a site was displayed on Scot Lane on 4 June 2020. Both notices give 21 days for the submission of any comments.

Local Plan Core Strategy Document Development Plan Document 2013 (CS) has been provided by the Council with its Questionnaire, which I consider relevant given the presence of WHF.

5. In these instances, I do not consider that I would prejudice any party in taking the matters of privacy, the setting of WHF or CS Policy CP11 into account during the determination of this appeal, due to the comments already provided in the Officer Report and in the appellant's submission. Additionally, an opportunity was given to the appellant to submit further comments on the matters surrounding the setting of WHF.

Main Issues

6. The main issues of this appeal are the effect of the proposed development on:
 - the living conditions of neighbouring occupiers, particularly No's 17, 19 and 21 Dunoon Road (No's 17 to 21 (odd)); and,
 - the character and appearance of the appeal site and surrounding area, including the setting of WHF.

Reasons

Living Conditions

7. The proposed development comprises a first-floor rear extension over the existing single storey rear extension and an increase in the height of both the ridge of the roof and the chimney. It is common ground between the main parties that the only matter in dispute in relation to this matter concerns the effect of the development on the properties to the rear of the site on Dunoon Road. On the evidence before me and from my findings during the site visit, I have little reason to disagree with this observation.
8. The site occupies a higher land level than the properties located on Dunoon Road, due to the surrounding topography. No's 17 to 21 (odd) comprise of semi-detached bungalow's with modest rear gardens that are located within a row of similar styled properties. I am advised on a drawing² showing the cross section (the cross section) between the site and No 19 that the difference in land levels is approximately 2.5metres. On my site visit a taller, closed boarded fence, than that indicated on the cross section was already located on the rear boundary, approximately 1.8 metres in height.
9. I note in respect of the cross section the appellant asserts that none of the rear gardens to the properties on Dunoon Road would be visible and that only a very limited section, at the top of the rear windows to these properties would be visible from the proposed first floor windows in the development. Both main parties have brought to my attention the guidance in the Council's House Extensions Design Guide Supplementary Planning Document 2019 (SPD). I note that a minimum separation distance of 17 metres is suggested and that this distance could be increased by 1.5 metres for every 0.5 metre increase in changes in land levels. Additionally, I note that these distances could be relaxed where the amenity of neighbouring occupiers is not compromised. Whilst the adoption of the SPD was after the submission of the planning

² RAD/1950/19/3/RevA

application, there is no doubt it was adopted in advance of its refusal by the Council.

10. In this instance, I viewed the relationship between the host dwelling and the bungalows immediately to the rear from an elevated position within the rear garden of the host dwelling and from various locations from public footpaths on Dunoon Road. I consider that the change in land levels is notable, and in the absence of any details demonstrating proposed finished floor levels, I cannot be certain that more of the windows located in the rear elevations of the bungalow's to the rear of the site would not be visible. For similar reasons, I am not convinced that No's 17 to 21 (odd) would not be overlooked from the proposed roof lights within the new rear roof slope. Although the rear fence would provide some mitigation to the proposed first floor windows, it would have little effect on the proposed windows at second floor. I have considered whether suitably worded conditions could be imposed to ensure that otherwise unacceptable development could be made acceptable, but this is not possible in this instance.
11. To facilitate the level of accommodation proposed at second floor, in the roof of the host dwelling, an increase to the existing ridge height would be required, amounting to some 2.5 metres approximately. I find that this addition would be notable, resulting in a significant increase to the overall bulk and massing of the host dwelling. Thus, when taking into consideration the changes in land levels, between the site and Dunoon Road, as well as the separation distance, I find that the proposed development would have an overbearing effect on the occupiers of properties to the rear of the site, particularly those at No's 17 to 21 (odd). This would in turn result in a significant harmful effect upon the outlook from the rear windows of No's 17 to 21 (odd), which would be heightened in the case of No 19, as it would directly face the proposed development.
12. The appellant has made reference to the relationship between a neighbouring property³ and a neighbouring bungalow on Dunoon Road and to the original planning permission for the host dwelling. Whilst noting these comments, relatively little detail has been provided regarding the planning background to these schemes. Without such information a full and detailed comparison between these developments and the case before me cannot be easily drawn. I was able to observe and assess the existing relationships at my visit. However, given that these developments, including the host dwelling were constructed prior to the adoption of the SPD, and involve a gable end in the case of No 111, I find these other developments cited to have little implication for the specific impact of the appeal scheme. In any event, the fact that development with separation distances below the current guidance may exist, is not a reason, on its own, to allow otherwise unacceptable development.
13. For all of these reasons, I therefore conclude that the proposed development would significantly harm the living conditions of neighbouring occupiers, particularly those present at No's 17 to 21 (odd). This would conflict with the overall living condition and amenity aims of CS Policy CP17, the guidance contained in the SPD and the requirements of the National Planning Policy Framework (the Framework).

³ No 111 Scot Lane

14. CS Policy CP10 has been referred by the Council in its decision notice as part of the first refusal reason. However, this policy appears to relate to character and appearance and therefore I find it is not directly applicable to this main issue.

Character and Appearance, and the Heritage Asset

15. The host dwelling is a detached house with a detached garage within a small group of similar styled houses. To the front of the host dwelling is WFH and Scot Lane beyond. The WFH is located close to the host dwelling and is a property of some age and historic value, which has a date stone inscribed: "TGA/1755". WFH benefits from a prominent location on Scot Lane and the listing⁴ confirms that WFH was first listed on 9 June 1966. When looking at the host dwelling from the front No 103 Scot Lane is to the right and No 111 is to the left.
16. During my visit, I noticed that it is possible to view the host dwelling from various locations on Dunoon Road. However, I found that the overall impact of the host dwelling on the character of Dunoon Road to be limited. I believe that although some of the proposed development would be visible from Dunoon Road, the existing street pattern and dwellings present to the rear of the host dwelling would prevent any significant harm to the character of Dunoon Road. In contrast, the proposed development would be readily visible from public land on Scot Lane, especially when travelling in an easterly direction, between Sumner Street and Ephraim's Fold. In this direction of travel, the increase to the ridge height of the host dwelling, the resulting larger front facing roof slope and the larger gable and chimney would be clearly visible.
17. The proposed development would be read directly against the adjacent dwellings, including WFH. I find that the host dwelling, along with No's 103 and 111 incorporate traditional proportions in their design, which accordingly compliments WFH, as they appear subordinate to the heritage asset. I recognise that WTH is a 3no. storey building, but in the context of the proposed development and this building I do not consider this to be a mitigating factor. Whilst reference has been made to the larger flat roofed British Legion building, I find that this has little consequence on the immediate character and appearance of the residential development surrounding WFH. No 103 occupies a lower land level than the host dwelling, albeit slightly. Nonetheless, this would still accentuate the strident visual effect of the proposed development on the site and its surroundings.
18. The proposed development would fundamentally alter the appearance of the front of the host dwelling, and the scale, massing and design of the development would be clearly visible from the street and within the setting of WFH. The design approach in the proposed development does not in this instance respond positively to the form of the host building, which would result in an excessive addition. Accordingly, the proposed development would form a strident addition, not fully taking into account its neighbours, including the setting of WFH, of which it would have an immediate presence.
19. Within public views from Scot Lane, the massed bulk of the proposed development would appear out of keeping with the host dwelling and be prominent in the backdrop setting to WFH. This would cause harm to the

⁴ Listing Entry Number: 1162511

setting of the Grade II listed WFH. Although, I find the harm to the listed building would be considered less than substantial, in accordance with the Framework, great weight should be given to the conservation of this asset. Whilst I appreciate that similar materials to those present in the host dwelling will be used in construction, this would not provide sufficient mitigation to prevent the harm identified. Therefore, in respect of the Act, I consider the proposed development would not accord with this duty.

20. For the reasons given above, I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the appeal site and surrounding area including the setting of WFH. Consequently, the proposed development would fail to accord with the heritage, design, character and appearance aims of CS Policies CP10, CP11 and the SPD.
21. Additionally, the proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the setting of WFH for the purposes of paragraph 196 of the Framework. The scheme would result in some limited economic and social benefits, and I note the intentions of the appellant to incorporate ecological and energy saving technologies. However, as public benefits, these would not outweigh the less than substantial harm to the setting of WFH.

Other Matters

22. I have had regard to various other matters raised by the appellant, including his need to develop the family home, to accommodate his family as it grows and to provide additional accommodation for his extended family in the future. Additionally, I note that no objections to the application were received from neighbouring occupiers. However, on the evidence before me these personal circumstances are not reasons to grant permission in the face of the harm identified. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

23. Given my findings above, the proposed development would result in harm to the living conditions of neighbouring occupiers, and to the character and appearance of the appeal site and the surrounding area, including harm to the setting of WFH. This would conflict with parts of the social and environmental objectives set out in paragraph 8 of the Framework. Thus, the proposal does not constitute sustainable development.
24. I have found that the development is contrary to the development plan when taken as a whole, and there are no other considerations which outweigh this finding. It is also at odds with the requirements of the Framework.
25. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR